

REMARKS

In the Final Office Action mailed January 7, 2009 ("Final Office Action"), the Examiner noted that claims 1-23, 25, and 27-33 are pending in the current application and that claims 1-23, 25, and 27-33 are rejected.

In this Response, claim 1 is amended. Applicant believes that all pending claims are in condition for allowance and respectfully request allowance of all the claims.

35 U.S.C. § 112, Second Paragraph

Claims 1-23, 25, and 27-33 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

In this Response, claim 1 is amended such that the "evolving", "evaluating", and "selecting" elements are written as three separate elements, as suggested by the Examiner. Support for this amendment is provided at, e.g., ¶¶ [0026] - [0028] of the specification.

With respect to claim 21, the Applicant submits that the "evolving" and "evaluating" elements were previously presented as separate elements and thus claim 21 has not been amended in this Response, and because they are separate elements, claim 21 is definite. Support for claim 21 is provided at, e.g., ¶¶ [0026] - [0028] of the specification.

With respect to claim 25, the Applicant submits that the claim, as previously presented, is definite because the claim recites that the "evolution controller" performs the two separate limitations of "evolves" and "evaluates." Support for claim 21 is provided at, e.g., ¶¶ [0033] - [0034] of the specification.

For the foregoing reasons, the Applicant respectfully requests that the indefiniteness rejection be withdrawn, and that claims 1, 21, 25, and their respective dependent claims be allowed.

35 U.S.C. § 112, First Paragraph

Claims 1-23, 25, and 27-33 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

As stated above, claim 1 is amended such that the “evolving”, “evaluating”, and “selecting” elements are written as three separate elements, as suggested by the Examiner. No new matter has been added. Support for this amendment is provided at, e.g., ¶¶ [0026] - [0028] of the specification.

For reasons similar to those provided in the earlier section, claims 21 and 25 also satisfy the written description requirement because, e.g., there is support for these claims in the paragraphs specified earlier.

For the foregoing reasons, the Applicant respectfully requests that the lack of written description rejection be withdrawn, and that claims 1, 21, 25, and their respective dependent claims be allowed.

CONCLUSION

Reconsideration and a notice of allowance are respectfully requested in view of the Amendments and Remarks presented above. If the Examiner has any questions or concerns, a telephone call to the undersigned is invited at (408) 879-4682.

Respectfully submitted,
/ Thomas George, 45,740 /
Thomas George
Attorney for Applicant
Reg. No.: 45,740

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent & Trademark Office on March 5, 2009.

*/Katherine Stofer/
Typed Name: Katherine Stofer*